

FISCAL NOTE

Bill #: SB0240

Title: Clarify interest on retainage belongs to contractor

Primary

Sponsor: Duane Grimes

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:	\$0	\$0
Revenue:		
General Fund	(\$94,677)	(\$126,235)
State Special Revenue	(95)	(127)
Capital Project Funds	(77,781)	(103,708)
Net Impact on General Fund Balance:	(\$94,677)	(\$126,235)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Department of Transportation:

1. Passage of this bill will require that a separate accounting entity be established that can retain interest earnings to account for contractor retainage.
2. The Board of Investments will invest the monies at the prevailing rates for the short-term investment pool (STIP).
3. The contractor is eligible to receive interest only on the retainage to be paid at the completion of the contract. That is, if the department withholds payment based on noncompliance or nonperformance, the contractor is not eligible to receive the interest earned by that money.
4. The Department of Transportation used an average of FY 1998 balances of contractor retainage for this fiscal note's calculations. (\$2,030,416)
5. An average STIP rate of 5.54% was used.

(continued)

6. Revenue loss = \$112,485 annually. ($\$2,030,416 \times 5.54\% = \$112,485$) Due to the October effective date, the impact would only be for 3 quarters in FY 2000.

Long-Range Building Program:

7. All funds are currently invested by the appropriate agency or university (administering agency) in the short-term investment pool (STIP) with the Board of Investments until the retainage is released.
8. Interest rates for the STIP will be 5.54%, based on a 6-month average for the period July through December 1998.
9. The general fund receives the interest earnings for all funds, with the exception of the Long-Range Building Program account and the bond accounts, which retain their interest earnings.
10. There will be approximately \$2,122,480 of retainage being withheld from the contractors at any given point in time, based on December 1998 data.
11. If this bill is passed, the funds that currently receive the interest earnings on the retainage will no longer have access to the funds.
12. The revenue estimates for the 2000-2001 biennium will be overstated for the funds that included the interest earnings in their revenue estimates (e.g., Long-Range Building Program account).
13. This bill applies to contracts entered into after October 1, 1999.

FISCAL IMPACT:

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Department of Transportation:		
<u>Expenditures:</u>	\$0	\$0
<u>Revenues:</u>		
General Fund (01)	(\$84,364)	(\$112,485)
Long-Range Building Program:		
<u>Expenditures:</u>	\$0	\$0
<u>Revenues:</u>		
General Fund (01)	(\$10,313)	(\$13,750)
State Special Revenue (02)	(95)	(127)
Other – CPF (05)	(77,781)	(103,708)
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$94,677)	(\$126,235)
State Special Revenue (02)	(95)	(127)
Capital Projects Funds (05)	(77,781)	(103,708)

TECHNICAL NOTES:

Statute (18-1-301, MCA) presently provides a mechanism for contractors to obtain earnings on their retainage by providing the contracting entity with a form of security (treasury bonds, certificates of deposit, etc.) in lieu of retainage. This allows the contractor to direct the monies in an avenue the contractor views as most appropriate. Presently the Architecture and Engineering Division write contracts with a provision informing all contractors of this option and many have taken advantage of it.